

Clarence Town Environmental Quality Review (TEQR)

Meeting Minutes

Monday, September 18, 2006

Matt Balling, Chairperson, called the meeting to order at 5:30 p.m. and led the pledge to the flag.

TEQR Members Present:

Matt Balling	Patrick Minor
Richard McNamara (6:30 p.m.)	John Moulin
Paul Shear	

Other Town Officials Present:

Patricia Powers, Planning Board Chairperson
James Callahan, Director of Community Development
James Hartz, Asst. Director of Community Development
Councilman Scott Bylewski, Town Board Liaison

Other Interested Parties Present:

Brad Davidzik	Don Swanson
Henry Jurek	Linda Mosher
Loretta Stock	Hank Brodowski
Rob Pidanic	Al Hopkins
Jim Geiger	Ramesh Patel
Ismet Hallac	Rob Prosser
Betty Murtaugh	Marty Powers
Steve Murtaugh	Sean Hopkins
John Rubino	

Scoping Session for approval of sewer capacity from Erie County Sewer District #6 and including the development of a new 47-lot subdivision at the southwest corner of the intersection of Clarence Center Road and Shimerville Road.

Mr. Balling explained the SEQRA process for public scoping. Jeff Palumbo was present representing the Rubino Brothers. He said that he is not sure why the item is listed on the agenda as approval of sewer capacity from ECSD#5 to CSD#6. The proposal is for a 47-lot subdivision. Mr. Balling said that they have been directed by the Town Board to postpone the scoping session on this issue until there is some clarification on what segment of the project is to be scoped.

Mr. Palumbo said that he has had a conversation with the Town Attorney regarding the issuance of the positive declaration on a project that has no formal plan at this point. He said that they have been waiting ad nauseum regarding the Town Board's direction as to Open Space Design, the 200' setback issue, and other issues including the sewer issue. Mr. Palumbo said that there is no way that any action can be taken regarding the proposed subdivision, because you do not have a formal plan submitted for review. There should not be any scoping on this action or anything related to the action. The Town of Amherst has agreed to allow the applicant capacity in the sewer system because of improvements that his clients paid for. Why would this issue be scoped?

Mr. Balling asked if the applicant has prepared a scope. Mr. Palumbo responded that they do not. They do not believe that it makes any sense for this issue to be scoped. Mr. Balling said that there are capacity concerns in the system for this 47-lot development and other related development that we do not know about, but would tie into this sewer as well.

Mr. Shear said that the board has received a letter from ECDEP dated August 29, 2006. It states that there is sufficient capacity for the project to tie into ECSD #5. On page 2 of that letter it says that the out-of-district agreement is contingent upon the local municipality approving the hook-up. Therefore, (SEQRA) is applicable. We therefore need some specific direction from the Town Board as to what we are looking at.

Mr. Palumbo said that the issue of sewer capacity has already been addressed by the Town Board in agreement form signed by both ECSD#5 and the Town Board. Mr. Balling said that he is not aware of the agreement. Jim Callahan stated that this scoping session is being tabled tonight.

Scoping session for the proposed Spaulding Greens Subdivision, which is a 380-unit subdivision over approximately 450 acres of land.

Matt Balling explained the procedure for scoping this proposed action. At the last TEQR meeting the board recommended a Positive Declaration be issued by the Town Board. The scoping session will remain open for thirty days to give sufficient time to the public for written comments. Ken Zolitsch said that they have not defined a scope yet. They have the original scope from the Heise-Brookhaven Trunk Sewer line project and they will wait to see if there is anything else to add. Jim Callahan said that this project is part of the 1,000 homes of the Heise-Brookhaven Project. As defined in the DEIS, there will be a supplemental EIS prepared as part of this project.

Matt Balling asked if cumulative impacts were considered in the DEIS. Jim Callahan said that it did look at the impacts of 500 sewer taps East of Goodrich Road. Matt Balling said that the most significant impact would be traffic and on some of the community facilities such as schools. Ken Zollitsch said that the proposed project is only

380 units. Matt Balling said that there are some aspects of the Town have changes since 2001 when the original DEIS was drafted.

Dominic Piestrak said that there has already been some environmental work done on the project site including an archeological investigation and wetland delineation. Paul Shear asked is the tilling or clearing of the land in conjunction with the archeological investigation. Dominic said that it was and there was nothing significant found. Ken Zollitsch said that the vast majority of the project is properly zoned for residential use.

Matt Balling said that there was a consent order from DEC that requested the Heise-Brookhaven Trunk Sewer Corporation to dam up some areas along the line. The board would like a description of those activities.

Scott Bylewski said that he would like to see a narrative on how this project complies with Master Plan 2015, impacts on infrastructure (ie. Fire flow, parks, schools), community character, stream and creek corridor protection and how this project would minimize those impacts.

Gary Wright said that he videotaped the installation of the dams. He said that it was the most pathetic display of workmanship that he has ever seen. They will not do what they are intended to do.

Matt Balling said that the board would most likely hold another public hearing on the content of the draft scope before it is finalized.

Steve Murtaugh said the he would like to see the Arboretum compliment this project and this project compliment the Arboretum. He is very concerned about the water flow feeding the ponds at Town Hall property. He is concerned about both the quality and quantity of the water feeding these ponds. He would also like to see the Goodrich Road frontage preserved. It is a borrowed view that would be nice to preserve. Public safety should be looked at when reviewing the roadway connections to Goodrich Road. He would not like to see Town Hall parking lot become a cut through for people living in the new development. The traffic increase on Goodrich Road may significantly impact the four corners in Clarence Center. Also, there are significant open culverts along Goodrich Road in both directions.

Scott Bylewski said that it is important that cumulative impacts must be looked at when reviewing all the impacts related to the project.

Mr. Shear said that there are four ingress or egress points to this project. He asked what is happening with the property to the North. Mr. Piestrak said that it would be difficult to obtain a stream crossing permit from NYSDEC to access the property to the North. The floodway gets wider to the North of Ransom Creek. John Moulin asked if the Pine Meadows golf course would be removed. Dominic Piestrak said that they are planning to remove it.

Mr. Piestrak said that the Town will have to decide what to do with the property, if this plan goes forward. Mr. Piestrak said he has no plans for the property. Mr. Balling asked if walking paths would be included. Mr. Piestrak said that they would like to do a bike path through the development North-South along the Gas line and East West along the Creek corridor. There would also be some retention ponds along the creek corridor. The concept would be to create a nice walking environment around the development. Mr. Balling said that he is concerned over the safety of people crossing Goodrich Road to get to Town Hall or the Library. Ken said that they will look at it.

Mr. Balling said that the board will now table this scoping session until a future date.

Item 1

Approval of minutes of previous meeting.

Motion by Matt Balling, seconded by Paul Shear, to **table** the minutes of the meeting held on August 21, 2006, as they were not prepared yet.

Matt Balling	Aye	Patrick Minor	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 2

Communications

There are no communications to report.

Item 3a

Stage & Schurr Subdivision

Jim Callahan gave a brief update on the status of the project. The board is still waiting for an archeological report to determine the significance of the archeological findings. Mr. Balling asked Jim Callahan if the applicant is in accord with the tabling of this project until that report is completed. Jim said that he spoke with the applicant earlier that week and he is.

ACTION:

Motion by Paul Shear, seconded by John Moulin, that the board table this item until the next meeting.

VOTING:

Matt Balling Aye
Richard McNamara Aye
Paul Shear Aye

Patrick Minor Aye
John Moulin Aye

MOTION CARRIED.

Item 3b.

Krantz Open Development Area

Jim Callahan gave a brief presentation of the project. Don Swanson and Tim Krantz were present to answer any questions. Mr. Balling asked if the Erie County Highway Department commented on the project. Jim Callahan stated that a highway work permit will be required for the road connection. Mr. Balling said that NYSDEC will review the SPDES permit application and that they mentioned that the property is located within the 100-year flood zone. Don Swanson said that they would comply with whatever requirements DEC places on them.

ACTION:

Motion by Matt Balling, seconded by Paul Shear, that the board complete the EAF part II by noting Items I & V as potentially large impacts, but may be mitigated by complying with the Town's Flood Damage Prevention Law (Chapter 107) and applying for septic system permits through the Erie County Health Department.

VOTING:

Matt Balling Aye
Richard McNamara Aye
Paul Shear Aye

Patrick Minor Aye
John Moulin Aye

MOTION CARRIED.

ACTION:

Motion by Matt Balling, seconded by Paul Shear, that the board recommend a Negative Declaration be issued by the Town Board regarding this proposed action.

VOTING:

Matt Balling Aye
Richard McNamara Aye
Paul Shear Aye

Patrick Minor Aye
John Moulin Aye

MOTION CARRIED.

Item 3c.

Utilization of Sewer Capacity Outside of Erie County Sewer District #5 for areas not included in a sewer district and proposed Harris Hill Commons Open Space Design Subdivision.

Jim Callahan gave a brief project description. Peter Sorgi and Leanne Voit were present as project representatives. Mr. Balling asked about the federally jurisdictional wetlands on the property and what kind of response the applicant has received from the USACOE. Leanne Voit said that they have spoken with USACOE regarding the impacts and have made an application with them. They will continue to work toward a permit. There has been no formal response from that agency or DEC yet.

The minimum thirty-day comment period has not yet expired on this project and the Town is still awaiting some correspondence from involved agencies regarding Lead Agency status.

ACTION:

Motion by Matt Balling, seconded by Patrick Minor that the board table this item until the next meeting.

VOTING:

Matt Balling	Aye	Patrick Minor	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 3d.

Adequate Public Facilities Local Law/Amendments to Master Plan 2015.

Jim Callahan gave the board an update on where the legislation is in the process. Scott Bylewski said that there are a number of Memorandum of Understanding agreements that have not been completed by various agencies. Mr. Balling said that it would seem practical to wait until the Town has some of these agreements in place and finalize legislation before they give a recommendation on the impacts. Scott Bylewski advised that the Master Plan Amendments may move forward in the meantime.

Matt Balling asked if any of the thresholds have been established yet by the Town. Jim Callahan said that the Master Plan amendments are more generic in nature. The law and MOU's will specify the threshold numbers. Jim Callahan stated that the APFO Master

Plan Amendments with an EAF part I were forwarded in July. The board indicated that they would like to take some time to review the amendments and law.

ACTION:

Motion by Matt Balling, seconded by Paul Shear to table this item until the next meeting.

VOTING:

Matt Balling	Aye	Patrick Minor	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 3e.

Kausner Open Development Area
4180 Ransom Road

Jim Callahan gave the board an update on the project. The item is considered an unlisted action. Mike Metzger and John Kausner were present to address the board. The minimum 30-day comment period has not expired, so this action will be tabled. Mike Metzger said that they have had conversations with the Town Engineer on drainage schemes that may help adjacent properties. Mr. Kausner would be willing to build a pond if it would help the area.

Mr. Metzger said that they have relocated the driveway to satisfy some of the concerns from the neighbor to the North and the meet the requirements of the open development area law. Mr. Metzger asked if there were any other questions.

ACTION:

Motion by Matt Balling, seconded by Patrick Minor, that the board table the item until the next meeting.

VOTING:

Matt Balling	Aye	Patrick Minor	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 3f

Dunkin Donuts

9430 Main Street

Jim Callahan gave the board an overview of the project. Mr. Balling asked who filled out the EAF part II he received. The Part II was done by Mr. Callahan. Mr. Balling said that he is very concerned about the cumulative traffic impacts especially in this section of Main Street. The 30-day comment period is not yet expired.

ACTION:

Motion by Matt Balling, seconded Mr. McNamara, to table this item until the next meeting.

VOTING:

Matt Balling	Aye	Patrick Minor	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 3g

Parks and Recreation Master Plan

Jim Callahan said that a copy of the plan was forwarded for review. The 30-day comment period has not yet expired. Matt Balling said that he was happy to see a number of professional standards being adopted in the report and especially happy to see the reintroduction of neighborhood parks into the landscape.

ACTION:

Motion by Matt Balling, seconded by Patrick Minor, that the board table this item until the next meeting.

VOTING:

Matt Balling	Aye	Patrick Minor	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 3h.

Historic Preservation Local Law

Jim Callahan gave the board an update of the law. Although the adoption of a historic preservation law may be considered a Type II action, a coordinated review of the

environmental impacts will be done. Henry Brodowski, chairman of the Town's Historic Preservation Committee, said that he is a former 40-year employee of the NYSOPRHP. He gave a brief description of the committee's efforts to bring this law into its current form. He explained the Certified Local Government (CLG) program run through NYSOPRHP. The Town Attorney's Office has cooperated in the review of the draft ordinance. Mr. Brodowski explained that 50 other municipalities in NYS have obtained CLG status.

Mr. Balling asked if funding sources are available from the state to fund historic preservation efforts in Town. Mr. Brodowski explained that the state has just begun to fund historic preservation efforts in blighted areas. He explained that CLG status does help in historic preservation efforts and future funding.

Mr. Shear asked if the board has the most current copy of the draft law. He questioned the administrative structure that would be established by the law. Mr. Brodowski explained that it would establish a commission that would make recommendations to the Town Board for granting historic significance status. Mr. Bengart said that the Town currently has a study underway to inventory the Town's historic resources. Mr. Shear stated that he has heard some fears from people who own older properties that they do not want any additional requirements to maintain property, such as being told where they can locate shrubs and sidewalks. Mr. Brodowski stated that the intent of the law is for preserving the architectural integrity of the property. Any proposed changes would be subject to review. Mr. Bengart said that there may be additional costs involved with improving designated historical property. Mr. Shear gave an example of the increased costs associated with properties designated as historically significant. Mr. Shear said that the offset of property taxes on these properties could never cover the costs associated with making the improvements necessary to meet the historical preservation guidelines. Mr. Bengart said that there are relief mechanisms in the law as well as Article 78 process for landowners affected by onerous requirements.

Linda Mosher said that she is a life-long resident of the Town and has worked in real estate for 30 years. The law does have restrictions on certain property owners, but so do other laws. Part of living as a community is sacrificing some individual freedoms for the community good. There have been some precious resources lost in years past. This law will increase property values in the Town. Some people who believe they have historical properties will be surprised to find out that they are not on the list. Out of 2,000 properties given to the consultant to research, 750 warranted further study. That does not mean that even 750 would be designated historic. The committee is interested in a very limited number of properties that include unique qualities.

Steve Bengart suggested that the chairman limit the dialogue to SEQRA related issues. Matt Balling said that he would like to hear whatever his board members might have to say about the proposed legislation. Scott Bylewski said that there is naturally a tension between private property rights and the requirements of any legislation. There are some incentives built into the law that would exempt those few property owners from Town General and Highway tax. Scott Bylewski said that in the Town of Amherst, which has

had historic preservation legislation in effect for more than a decade, has designated 9 properties as significant.

Mr. Shear asked Mr. Brodowski if only 9 properties would be designated as significant in the Town of Clarence. Mr. Brodowski said that its certainly possible that number may be designated in Clarence because of its history as the oldest Town in Erie County. Mr. Shear asked how many on the committee have properties that are potentially historically significant. Mr. Brodowski said four. Mr. Shear suggested that the Town Board may want to have a majority of members on the Commission that are subject to this law.

Linda Mosher said that there are several studies that have shown historically significant properties have a beneficial effect on property values.

Henry Brodowski explained that the Clinton Brown study is looking at photos from the assessor's office database. They have not been permitted on private property. They will go further during the more intensive level survey.

ACTION:

Motion by Matt Balling, seconded Paul Shear, that the board table this item.

VOTING:

Matt Balling	Aye	Patrick Minor	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 4a.

Stock Demolition
6961 Transit Road

Loretta Stock was present to describe her request to demolish the accessory structure in the rear of her property. Loretta said that her property was damaged after the construction of the new Swormville Fire Hall. The new construction has caused flooding and there is pending litigation with the Fire Company.

ACTION:

Motion by Matt Balling, seconded by John Moulin, that the board recommend that the Town Board solicit for Lead Agency status.

VOTING:

Matt Balling Aye
Richard McNamara Aye
Paul Shear Aye

Patrick Minor Aye
John Moulin Aye

MOTION CARRIED.

Item 4b.

9435 Main Street Office Park

Jim Callahan described the history of the project. Tom Thielman was present to answer any questions. Mr. Thielman explained that the site plan shows the full build out of the property. Phase I would include only the 21,000 sq. ft. office building. The other buildings would be applied for after they are leased. The site plan shows how all of the uses will work together.

The wetland delineation is shown on the plan and is clearly out of the developable area on the plan.

ACTION:

Motion by Matt Balling, seconded by Rich McNamara, that the board recommend that the Town Board solicit for Lead Agency status and begin the 30-day review process.

QUESTION:

Paul Shear clarified that the parking area will be sufficient for all of the uses proposed in the future.

VOTING:

Matt Balling Aye
Richard McNamara Aye
Paul Shear Aye

Patrick Minor Aye
John Moulin Aye

MOTION CARRIED.

Miscellaneous

Peter Gorton said that there is a grant program for historic preservation run through the Empire State Development Corp. called Restore NY. He also said that he is very concerned about projects being applied for outside of established sewer districts. Matt Balling said that they will take this issue up at the next meeting after they have received all of the comments from involved agencies. Scott Bylewski said that they will be looking at the action in conjunction with the proposed subdivision.

The meeting was adjourned